

issuing bank unless there is an agreement to provide for alternative presentment. It is important to note that there is no current legal requirement that an issuing bank return the original check to its customer.

The terrorist attacks of September 11, 2001 and the subsequent closure of air traffic by the Federal Aviation Administration exposed a serious weakness in our financial system. The inability of banks to send physical checks for presentment and payment for several days prevented the clearing of close to \$50 billion in transactions. This crisis required the Federal Reserve to use extraordinary efforts to prevent a serious disruption in our financial markets.

Under the Check 21 Act, banks will no longer be required to physically transport checks across the nation. Instead, they will be allowed to electronically scan the front and back of each check, create an encrypted, electronic image of each check, and then transmit the images rapidly from one area of the country to another. Consumers who wish to receive copies of their checks for record keeping purposes or who are investigating bank errors or possible fraud may receive printed copies of these electronic images. According to the Federal bank regulatory agencies, they have received few, if any, complaints from bank consumers who currently do not have their original checks returned with their monthly statements and use imaged copies of checks to dispute payments. Moreover, the Check 21 Act will not alter present law requiring banks to maintain copies of checks for seven years.

The widespread adoption of check truncation and electronic imaging will reduce the dependence of the check processing system on transportation and will increase the resiliency of the financial system to terrorist attacks or other unforeseen events. In addition, the banking industry has indicated that the legislation has the potential to make deposited funds available to the consumer more quickly. With increased efficiency through electronic check transmission, banks have also indicated that they will be able to reduce processing time and may be able to more quickly identify check fraud and bank errors. Moreover, in certain cases where a consumer's account is improperly charged, the legislation provides for expedited recrediting of the account.

Important consumer protections were maintained during the development of this check truncation legislation in the Senate. I appreciate Chairman SHELBY's responsiveness to many of my concerns regarding consumer protections and ensuring that consumers enjoy some of the benefits of the legislation. I am also pleased that the House Conferees agreed to incorporate the Senate's consumer protection provisions in the Conference Report.

First, the conference report contains statutory language clarifying that the comparative negligence language in the bill is not intended to reduce the rights of consumers under the Uniform Commercial Code or other applicable state or federal law. The report language in the Senate bill further clarifies that in the absence of fraud or bad faith, the comparative negligence provisions would generally not be applicable to consumer check users.

Second, the Check 21 Act establishes, for the first time, the right of expedited recredit for improper check charges to a consumer's bank account. Pursuant to Section 7 of the legislation, certain consumers are given a right to expedited recredit within 10 days for the amount of a substitute check—under \$2,500—that is improperly charged to the consumer's account. Current check law does not mandate a time frame for resolving consumer complaints. A consumer will have 40 days to make a claim after the financial institution mails the periodic statement or makes the substitute check available. Under extenuating circumstances, the financial institution must extend the period for filing a claim by a reasonable amount of time.

Section 7 states that the time for action begins when the financial institutions mails or delivers, by any means agreed to by the consumer, the periodic statement, or the date on which the substitute check is made available to the consumer and Section 12 permits notices to be sent to a consumer by any means agreed to by the consumer. However, this Act does not address how the agreement referred to in sections 7 or 12 may occur. That topic is covered by the Electronic Signatures in Global and National Commerce Act.

Third, the conference report contains a Federal Reserve study on the appropriateness of the time frame and monetary threshold for expedited funds availability. This provision requires the Fed to re-evaluate current practices and may lead to the reduction in the amount of time a bank may hold a deposited check before making the funds available to the consumer.

Lastly, the conference report contains a General Accounting Office study to evaluate an assessment of consumer acceptance of the check truncation process, including whether consumers who were receiving returned checks prior to the enactment of this legislation incurred any new costs; and estimate of the gains in efficiencies made possible by this Act; and a determination of consumers' share of total benefits derived from this Act.

I also want to take a moment to recognize those members of the Banking Committee staff who devoted so many hours to crafting this important and comprehensive legislation. On my staff: Patience Singleton and Aaron Klein and on the staff of Chairman SHELBY: Peggy Kuhn and Doug Nappi.

I look forward to monitoring the implementation of the Check 21 act by

the Federal Reserve and the banking industry to ensure that consumers benefit from this legislation.

Mr. BURNS. I ask unanimous consent that the conference report be adopted and the statements relating to the conference report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR THURSDAY, OCTOBER 16, 2003

Mr. BURNS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, October 16. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of Senator HUTCHISON or her designee and the second 30 minutes under the control of the minority leader or his designee, provided that following morning business, the Senate resume consideration of S. 1689, the Iraq-Afghanistan supplemental appropriations bill.

I further ask that amendment No. 1818 then be the pending business.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, is amendment No. 1818 the Byrd amendment?

The PRESIDING OFFICER. It is. Without objection, it is so ordered.

#### MIKE MANSFIELD BIOGRAPHY

Mr. REID. If I could, I want to say on the record here I badly wanted to go to a reception held tonight right across the hall, sponsored by the acting minority leader, Senator BAUCUS, and Congressman REHBERG, because they were going to, at that time, release the biography of one of my favorite Senators of all time, Senator Mansfield.

I apologize to the delegation from Montana for being unable to be there, but we were here on the floor. I do hope the book is a success. If the author of that biography is able to capture even a little bit of the history of this great man, it will be a wonderful book to read, and I am sorry I missed it.

#### PROGRAM

Mr. BURNS. Mr. President, for the information of all Senators, on Thursday, following morning business, the Senate will resume consideration of Iraq-Afghanistan supplemental appropriations bill. Tomorrow morning the Senate will resume debate on Senator BYRD's amendment No. 1818. It is hoped that we can begin voting on the pending amendments and any other offered amendments at an early time tomorrow morning.

Earlier tonight the Senate agreed to a limited list of amendments. Therefore, Senators should notify the managers if they intend to offer an amendment from that list.

Senators should expect rollcall votes throughout the day and into the evening tomorrow in relation to amendments to the Iraq-Afghanistan appropriations bill.

I want to put a footnote here. I did attend the reception for Senator Mansfield. He was a man of few words. He knew the weight of a word. I was also in the press corps in Montana when he

served in this body. I tell you, if the producer told you to fill 5 minutes, it would take 30 questions to do it.

He shall be missed by the State of Montana. He is missed by this country. Now he belongs to history, and that is the way it is supposed to be.

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ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

Mr. BURNS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the

Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:51 p.m., adjourned until Thursday, October 16, 2003, at 9:30 a.m.

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NOMINATIONS

Executive nomination received by the Senate October 15, 2003:

DEPARTMENT OF STATE

MARGUERITA DIANNE RAGSDALE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF DJIBOUTI.